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Eduardo Casais

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EXAMINER

KARIKARI, KWASI

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/088,061	<b>Applicant(s)</b> CASAIS, EDUARDO	
	<b>Examiner</b> KWASI KARIKARI	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04/16/2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 3-5,9,10,13,17-19 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,2,6-8,11,14,20-23 and 25-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

1. In view of the Appeal Brief filed on 04/16/2008, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Charles N. Appiah/

Supervisory Patent Examiner, Art Unit 2617

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 2, 6-8, 11-2, 14-6, 20-23 and 25-45 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1,2,6-8,11,12,14-16,20-23 and 25-45 are rejected under U.S.C. 103(a) as being unpatentable over Birgeron (U.S 6,138,009), (hereinafter Birgeron), in view Freeny, JR. (US 20020187779 A1), (hereinafter Freeny).**

**Regarding claim 1** Birgeron discloses a system (see Figs. 1-2 and 5- 6) for supplying data in electronic form (= application/software download, see col. 7, lines 9-54 and Fig. 1) comprising;

a mobile terminal (= MS/cellular telephone 10) and a supplying terminal (= BS 20), the supplying terminal comprising a first communication transceiver configured to receive data from at least one data server (= item 5 or 6, see Fig. 1) and (= base station handles means for serving/routing queries to databases and software to the telephone, see col. 7, line 55- col. 8, line 25 and Fig. 1, items 4) and send at least part of the data (downloaded 2, see col. 8, line 17-18 and Fig. 1) to the mobile terminal over a wireless connection (= base station handles means for serving/routing queries to databases and

software to the telephone, see col. 7, line 55- col. 8, line 25; and Fig. 1, items 2) wherein the first communication receiver is configured to obtain electronic data from the at least one data server (= software/downloaded 4 from internet 30 that includes databases 5 and 6, see col. 8, line 17-18 and Fig. 1) by communication over a wireless network (= e.g., internet or intranets, see col. 7, lines 9-54).

Birgersson also mentions that different communication networks communicating with different frequencies, protocol etc. can use the same principle and same source for providing a generic telecommunication unit with customized basic software (see col. 11, line 53- col. 12, line 4); but fails to disclose “a second transceiver” and “wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection”.

However, Freeny teaches a proximity system that include internet network (see [0005, 0064 0088, 0084, 0087 and 0176-79]). Freeny also mentions a proximity system AWAU that includes multiple transceivers that use different frequencies such as low power radio frequencies (see [0077-78, 0080, 0084, 0188, 0208, 0226 and Fig. 17]); whereby the low power frequencies, for example 900 Mhz or 1.8 Ghz, is being associated with “wherein the wireless connection is Low Power Radio Frequency (LPRF) connection”.

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgersson for the benefit of achieving a proximity system that include different frequencies; and private and public networks (see Freeny, [0005, 0064, 0084 and 0087]).

**Regarding claim 2**, as recited in claim 1, Birgerson further discloses the system in which there is a plurality of data servers (see items 5 and 6 in Fig. 1) to supply electronic data to the supplying terminal (see item 20 in Fig. 1).

**Regarding claim 6**, as recited in claim 1, Birgerson fails to disclose, the system in which the supplying terminal is a vending machine which supplies electronic data in exchange for a monetary payment.

However, Freeny mentions that the proximity system includes vending machines system whereby wireless device could receive service or goods (see 0005 and 0176-79]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization means involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 7**, as recited in claim 6, Birgerson fails to disclose, the system in which the supplying terminal and mobile terminal exchange information necessary to enable payment to be made for the electronic data supplied to the mobile terminal

However, Freeny mentions that the proximity system that includes vending machines system whereby wireless device could receive service or goods, parking system (see 0005 0073, 0096 0128, 0157 and 0176-79]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization means involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 8**, as recited in claim 1, Birgerson discloses, the system in which the mobile terminal and the supplying terminal communicate by the Wireless Application Protocol (WAP) (= e.g download from internet to cellular telephone 10 via base station 20, see col. 7, lines 9-42 and col. 8, lines 12-47).

**Regarding claim 11**, as recited in claim 1, Birgerson further discloses the system in which the wireless network is provided by a cellular network (= e.g., internet or intranets of the GSM system see col. 7, lines 9-54; and col. 11, lines 30- col. 12, line 4).

**Regarding claim 12**, as recited in claim 1, Birgerson fails to disclose, the system, in which the wireless connection is a connection between the mobile station and the supplying terminal in a pico-cell.

However, Freeny teaches the system, in which the wireless connection is a connection between the mobile station and the supplying terminal in a pico-cell (= e.g Pico pay system using signaling frequencies such as infrared region, 900 Mhz, 1.8 Ghz 2.4 Ghz etc, see [0050, 0060, 0094 and 0208]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a proximity system that include different frequencies; and private and public networks (see Freeny, [0005, 0064, 0084 and 0087]).

**Regarding claim 14**, as recited in claim 1, Birgerson further discloses the system in which the wireless network obtains the data from a second network which is a wired network (= e.g., internet and intranet network, see col. 7, lines 9-54).

**Regarding claim 15**, as recited in claim 1, Birgerson further discloses the system in which the wireless network obtains the data from the Internet via a gateway (= e.g., internet and intranet network, see col. 7, lines 9-54).

**Regarding claim 16**, as recited in claim 1, Birgerson discloses, the system, in which the data transmitted to the mobile terminal from the supplying terminal is only part of the data transmitted to the supplying terminal by the or each data server (= downloaded 4 from items internet 30 that includes databases 5 and 6, see col. 8, line 17-18 and Fig. 1).

**Regarding claim 20**, as recited in claim 1, Birgerson fails to disclose, the system, in which the price at which the electronic data is sold is determined by a person controlling supply of that electronic data to mobile terminals.



However, Freeny teaches the system, in which the price at which the electronic data is sold is determined by a person controlling supply of that electronic data to mobile terminals (= e.g., Pico pay system and vending machine purchases, see [0166 and 0179]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization means involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 21**, as recited in claim 1, Birgerson further discloses the system in which the mobile terminal is a mobile telephone (= cellular telephone 10, see col. 7, lines 9-43).

**Regarding claim 22**, as recited in claim 1, Birgerson further discloses the system in which the mobile terminal is selected from a group consisting of game playing devices, portable audio players, portable video players, personal digital assistants and smart telephones (= cellular telephone 10, see col. 7, lines 9-43).

**Regarding claim 23**, as recited in claim 1, Birgerson discloses, the system, in which the data in electronic form is uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile

terminal (= e.g., automatic update of software and push technique, see col. 8, line 48- col. 9, line 35; and col.10, lines 26-40).

**Regarding claim 25**, Birgerson discloses a supplying terminal (= base station 20, see Fig. 1) for supplying data in electronic form (= download from database 5/6, see col. 7, line 55- col. 8, line 22) comprising;

first communication means for receiving data from at least one data server over a wireless network (= Base station 20 receives software/downloaded 4, from internet 30 that includes databases 5 and 6, see col. 7, line 55- col. 8, line 22 and Fig. 1) and

second communications means for sending at least part of the data to a mobile terminal (= Base station 20 routes or sends download to the cellular telephone 10, see col. 7, line 55- col. 8, line 22; and Fig. 1) over a wireless connection (= e.g connection between telephone 10 and base station 20, see Fig.1), wherein the first communication means is wireless communications means for receiving data from at least one data server over a wireless network (= e.g., software/downloaded 4,2 from internet 30 that includes databases 5 and 6, via base station 20, to telephone 10 see col. 7, line 55- col. 8, line 22 and Fig. 1).

Birgerson also mentions that different communication networks communicating with different frequencies, protocol etc. can use the same principle and same source for providing a generic telecommunication unit with customized basic software (see col. 11, line 53- col. 12, line 4); but fails to disclose, “wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection”.

However, Freeny teaches proximity system that include internet network (see [0005, 0064 0088, 0084, 0087 and 0176-79]). Freeny also mentions a proximity system AWAU that includes multiple transceivers that use different frequencies such as low power frequencies (see [0077-78, 0080, 0084, 0188, 0208, 0226 and Fig. 17]); whereby the low power frequencies, for example 900 Mhz or 1.8 Ghz, is being associated with “wherein the wireless connection is Low Power Radio Frequency (LPRF) connection”.

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgeron for the benefit of achieving a proximity system that include different frequencies; and private and public networks (see Freeny, [0005, 0064, 0084 and 0087]).

**Regarding claim 26**, Birgeron discloses a supplying terminal (= BS 20) for supplying data in electronic form (= software) comprising;

a first communication transceiver configured to receive data from at least one data server over a wireless network (= Base station 20 receives software/downloaded 4, from internet 30 that includes databases 5 and 6, see col. 7, line 55- col. 8, line 22 and Fig. 1) and

second communications configured to send at least part of the data to a mobile terminal (= MS 10) over a wireless connection (= Base station 20 routes or sends software/downloaded 2, from internet 30 that includes databases 5 and 6; and

connection between telephone 10 and base station 20, see col. 7, line 55- col. 8, line 22 and Fig. 1).

Birgerson mentions that different communication networks communicating with different frequencies, protocol etc. can use the same principle and same source for providing a generic telecommunication unit with customized basic software (see col. 11, line 53- col. 12, line 4); but fails to disclose “a second transceiver” and “wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection”.

However, Freeny teaches proximity system that include internet network (see [0005, 0064 0088, 0084, 0087 and 0176-79]). Freeny also mentions a proximity system AWAU that includes multiple transceivers that use different frequencies such as low power frequencies (see [0077-78, 0080, 0084, 0188, 0208, 0226 and Fig. 17]); whereby the low power frequencies, for example 900 Mhz or 1.8 Ghz, is being associated with “wherein the wireless connection is Low Power Radio Frequency (LPRF) connection”.

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a proximity system that include different frequencies; and private and public networks (see Freeny, [0005, 0064, 0084 and 0087]).

**Regarding claim 27**, as recited in claim 26, Birgerson further discloses the supplying terminal further comprising at least one controller configured to cause the supplying terminal to act as a proxy between the mobile terminal and the at least one data server

(= base station handles means for serving/routing queries to databases and software to the telephone, see col. 7, line 55- col. 8, line 25).

**Regarding claim 28**, as recited in claim 26, Birgerson discloses, the supplying terminal further comprising at least one controller configured to cause the transfer of data between the at least one data server and the supplying terminal to be carried out (= base station handles means for serving/routing queries to databases and software to the telephone, see col. 7, line 55- col. 8, line 25); but fails to mention the data transmission between devices involves security.

However, Freeny teaches provision of services such as email and stock quotes on cell phone that include billing and authorization from credit card or entering of authorization code and validation of the code (see [0061-62, 0066-67 and 0114-19]; wherein the authorization and validating of a code is being associated with security).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization means involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 29**, as recited in claim 26, Birgerson discloses, the supplying terminal further comprising at least one controller configured to cause the transfer of data between the supplying terminal and the mobile terminal to be carried out (= base station handles means for serving/routing queries to databases and software to the telephone,

see col. 7, line 55- col. 8, line 25); but fails to mention the data transmission between devices involves security.

However, Freeny teaches provision of services such as email and stock quotes on cell phone that include billing and authorization from credit card or entering of authorization code and validation of the code (see [0061-62, 0066-67 and 0114-19]; wherein the authorization and validating of a code is being associated with security).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization in a system involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 30**, as recited in claim 26, Birgerson discloses, the supplying terminal further comprising at least one controller configured to send the at least part of the data (= base station handles means for serving/routing queries to databases and software to the telephone, see col. 7, line 55- col. 8, line 25); fails to mention that data is send in response to confirmation of a monetary payment being made corresponding to the at least part of the data.

However, Freeny teaches provision of services such as email and stock quotes on cell phone, authorization, billing and vending machine purchases could be made after getting approval from credit card company over the phone (see [0114-19 and 0179];).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving

a system that includes biometric unit used for authorization in a system involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 31**, as recited in claim 30, Birgerson fails to disclose, the supplying terminal further comprising at least one controller configured to exchange information with the mobile terminal necessary to enable the monetary payment to be made.

However, Freeny teaches provision of services such as email and stock quotes on cell phone, authorization, billing and vending machine purchases could be made after getting approval from credit card company over the phone (see [0114-19 and 0179];).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization in a system involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 32**, as recited in claim 26, Birgerson discloses, the supplying terminal further comprising at least one controller configured to cause the mobile terminal and the supplying terminal to communicate using the Wireless Application Protocol (WAP) (= e.g download from internet to cellular telephone 10 via base station 20, see col. 7, lines 9-42 and col. 8, lines 12-47).

**Regarding claim 33**, as recited in claim 26, Birgerson further discloses the supplying terminal in which the first communications transceiver is configured to receive data over

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a cellular wireless network (= base station handles means for serving/routing queries to databases and software to the telephone, see col. 7, line 55- col. 8, line 25; and connection between telephone 10 and base station 20, see Fig. 1).

**Regarding claim 34**, as recited in claim 26, Birgerson discloses, the supplying terminal further comprising at least one controller and wherein the at least one controller is configured to send a portion of the received data to the mobile terminal, and wherein the portion of the received data is only part of the data received from the at least one data server (e.g., download 2 from base station 20 to telephone 10, see col. 8, lines 12-22 and Fig. 1).

**Regarding claim 35**, as recited in claim 34, Birgerson discloses, the supplying terminal in which the at least one controller is configured to allow a user of the mobile terminal to determine the portion of the data which is sent to the mobile terminal (= user requests software, see col. 7, lines 9-54).

**Regarding claim 36**, as recited in claim 26, Birgerson discloses, the supplying terminal further comprising at least one controller, and in which at least one controller is configured to allow a person controlling operation of the supplying terminal to determine the electronic data obtained from at least one data server (see col. 7, line 55- col. 8, line 22).



**Regarding claim 37**, as recited in claim 36, Birgerson discloses, the supplying terminal in which the at least one controller is configured to allow the person controlling operation of the supplying terminal to determine a configuration of the electronic data within the supplying terminal (see col. 7, line 55- col. 8, line 22).

**Regarding claim 38**, as recited in claim 36, Birgerson fails to disclose, the supplying terminal in which the at least one controller is configured to allow the person controlling supply of the electronic data to mobile terminals to determine the price at which the electronic data is sold.

However, Freeny mentions that the proximity system that includes vending machines system whereby wireless device could receive service or goods, parking system (see 0005 0062, 0096 0128, 0157 and 0176-79]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization means involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 39**, as recited in claim 26, Birgerson further discloses the supplying terminal in which the mobile terminal is one of a mobile telephone, game playing device, portable audio player, portable video player, personal digital assistant, and a telephones (= cellular telephone 10, see col. 7, lines 9-43).

**Regarding claim 40**, as recited in claim 26, Birgerson discloses, the system, further comprising at least one controller and wherein the at least one controller is configured to allow the data in electronic form to be uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile terminal (= automatic update/download, see col. 8, lines 26- col. 9, line 35).

**Regarding claim 41**, as recited in claim 26, Birgerson fails to disclose, the system, further comprising at least one controller configured to send, using the wireless connection, information to the mobile terminal about content offered for sale by the supplying terminal, the content comprising at least one item, the at least one controller further configured to send the at least part of the data in response to a request from the mobile terminal for purchase of a selected one or more of the at least one items.

However, Freeny mentions dispensation of gas; checkout stations and provisioning of prices to customers (see [0062, 0150, 0157 and 0176-79]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization in a system involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 42**, Birgerson discloses a method for supplying data in electronic form comprising:

receiving over a wireless network data from at least one data server (= Base station 20 receives software/downloaded 4, from internet 30 that includes databases 5 and 6, see col. 7, line 55- col. 8, line 22 and Fig. 1); and

in response to a request from the mobile terminal for at least a part of the data, sending using a wireless connection the at least a part of the data to the mobile terminal (= Base station 20 receives software/downloaded 2, from internet 30 that includes databases 5 and 6, see col. 7, line 55- col. 8, line 22 and Fig. 1).

Birgerson also mentions that different communication networks communicating with different frequencies, protocol etc. can use the same principle and same source for providing a generic telecommunication unit with customized basic software (see col. 11, line 53- col. 12, line 4); but fails to disclose “wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection”.

However, Freeny teaches proximity system that include internet network (see [0005, 0064 0088, 0084, 0087 and 0176-79]). Freeny also mentions a proximity system AWAU that includes multiple transceivers that use different frequencies such as low power frequencies (see [0077-78, 0080, 0084, 0188, 0208, 0226 and Fig. 17]); whereby the low power frequencies, for example 900 Mhz or 1.8 Ghz, is being associated with “wherein the wireless connection is Low Power Radio Frequency (LPRF) connection”.

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving

a proximity system that include different frequencies; and private and public networks (see Freeny, [0005, 0064, 0084 and 0087]).

**Regarding claim 43**, as recited in claim 42, Birgerson discloses, the method wherein:

the data comprises at least one item (= software/downloaded 4,2, from internet 30 that includes databases 5 and 6, see col. 7, line 55- col. 8, line 22 and Fig. 1); but fails to disclose “the method includes storing the data as part of content provided for sale; the method includes providing using the wireless connection information to a mobile terminal about the content offered; and sending further comprises in response to a request from the mobile terminal for purchase of a selected one or more items in the content, sending the selected one or more items to the mobile terminal.

However, Freeny mentions dispensation of gas; checkout stations and provisioning of prices to customers (see [0062, 0077, 0150, 0157 and 0176-79]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization means involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 44**, as recited in claim 43, Birgerson fails to disclose, the method wherein sending the selected one or more items to the mobile terminal is performed in exchange for a monetary payment.

However, Freeny mentions dispensation of gas; checkout stations and provisioning of prices to customers (see [0062, 0077, 0150, 0157 and 0176-79]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization in a system involving money transfer (see Freeny, [0005, 0054 and 0064]).

**Regarding claim 45**, as recited in claim 44, Birgerson fails to disclose, the method further comprising exchanging, using at least the wireless connection, information with the mobile terminal necessary to enable the monetary payment to be made.

However, Freeny mentions dispensation of gas; checkout stations and provisioning of prices to customers (see [0062, 0077, 0150, 0157 and 0176-79]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Freeny with the system of Birgerson for the benefit of achieving a system that includes biometric unit used for authorization in a system involving money transfer (see Freeny, [0005, 0054 and 0064]).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached form PTO-892 for cited references and the prior art made of record.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

**Applicant's amendments filed on 05/09/2007** necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-T (9am - 7pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kwasi Karikari/  
Patent Examiner  
Art Unit 2617  
07/14/2008

/Charles N. Appiah/

Supervisory Patent Examiner, Art Unit 2617